



UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.

Issued by the Department of Transportation on October 1, 2001

**NOTICE OF ACTION TAKEN -- DOCKET OST-2001-8772 - 7**

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Joint Applicants: **Delta Air Lines, Inc. & El Al Israel Airlines Ltd.**

Date Filed: January 24, 2001

Relief requested: (1) Exemption from 49 U.S.C. 41301 to permit **El Al Israel Airlines** to conduct scheduled foreign air transportation of persons, property and mail between Israel and Atlanta, Boston, Cincinnati, Dallas/Ft. Worth, Los Angeles, Miami, Orlando, Phoenix, Salt Lake City, San Francisco, Seattle, and Washington, DC/Baltimore, pursuant to a code-share arrangement with an authorized U.S. carrier.

(2) Statement of authorization pursuant to 14 CFR 212 of the Department's regulations to permit **El Al Israel Airlines** to display Delta's designator code on flights operated by El Al between Tel Aviv and New York (JFK and Newark).

(3) Statement of authorization pursuant to 14 CFR 212 to permit **Delta Air Lines** to display El Al's designator code on flights operated by Delta (a) between New York (JFK) and Tel Aviv, and (b) between New York (JFK and Newark) and Atlanta, Boston, Cincinnati, Dallas/Ft. Worth, Los Angeles, Miami, Orlando, Phoenix, Salt Lake City, San Francisco, Seattle, Washington, DC/Baltimore.

Applicant representatives: John Gillick (El Al) 202-775-9800; Robert Cohn (Delta) 202-663-8060

Background: On March 2, 2001, we granted El Al the exemption authority it requested and Delta the statement of authorization it requested as described above in paragraphs (1) and (3). We deferred action on El Al's request for a statement of authorization that would enable it to place Delta's designator code on flights operated by El Al between Tel Aviv and New York, pending advice from the FAA. By memorandum dated September 24, 2001, the FAA advised us that it had no objection to the proposed code-share.

**DISPOSITION**

Action: Remainder approved

Action date: October 1, 2001

Effective dates of statement of authorization granted: Indefinite, subject to attached code-share conditions

Remarks: We are granting El Al the statement of authorization it requests to display Delta's designator code on flights operated by El Al between Tel Aviv and New York (JFK and Newark). Grant of the authority is consistent with the provisions of the Protocol to the U.S.-Israel Air Transport Agreement signed July 11, 2001.

Except to the extent exempted/waived, this authority is subject to the terms, conditions, and limitations indicated:

☒ Standard exemption conditions

☒ Foreign air carrier permit conditions (Order 86-3-58)

☒ Code-share conditions (attached)

**Action taken by: Paul L. Gretch, Director  
Office of International Aviation**

We found that the applicant was qualified to perform its proposed operations.

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) our action was consistent with Department policy; (2) grant of the authority was consistent with the public interest; and (3) grant of the authority would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975. To the extent not granted/deferred/dismissed, we denied all requests in the referenced Docket. We may amend, modify, or revoke the authority granted in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR §385.30, may file their petitions within ten (10) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

*An electronic version of this document is available on the World Wide Web at:*  
[http://dms.dot.gov/reports/reports\\_aviation.asp](http://dms.dot.gov/reports/reports_aviation.asp)

**Delta Air Lines, Inc./El Al Israel Airlines, Ltd. Statements of Authorization**  
**Docket OST-2001-8772**

The code-share operations authorized here are subject to the following conditions:

- (a) The statements of authorization will remain in effect only as long as (i) Delta and El Al continue to hold the necessary underlying authority to operate the code-share services at issue, and (ii) the code-share agreement providing for the code-share operations remains in effect;
- (b) Delta and/or El Al must notify the Department immediately if the code-share agreement under which these code-share services are operated is no longer in effect or if the carriers decide to cease operating all or a portion of the code-share services under the agreement. We expect this notification to be received within 10 days of such non-effectiveness or of such decision. Such notices should be filed in Docket OST-2001-8772;
- (c) The code-sharing operations conducted under this authority must comply with 14 CFR 257 and with any amendments to the Department's regulations concerning code-share arrangements that may be adopted. Notwithstanding any provisions in the contract between the carriers, our approval here is expressly conditioned upon the requirements that the subject foreign air transportation be sold in the name of the carrier holding out such service in computer reservation systems and elsewhere; that the carrier selling such transportation (*i.e.*, the carrier shown on the ticket) accept responsibility for the entirety of the code-share journey for all obligations established in its contract of carriage with the passenger; that the passenger liability of the operating carrier be unaffected; and that the operating carrier shall not permit the code of its U.S. code-sharing partner to be carried on any flight that enters, departs, or transits the airspace of any area for whose airspace the Federal Aviation Administration has issued a flight prohibition;
- (d) The authority granted here is specifically conditioned so that neither Delta nor El Al shall give any force or effect to any contractual provisions between themselves that are contrary to these conditions.

We may amend, modify, or revoke this authority at any time without hearing.